

Superior Court of the District of Columbia

United States of America/
District of Columbia

vs.

Case No. 2010 CF1 24172

Dezell Bennett

PLEA AGREEMENT AND WAIVER OF TRIAL

PLEA AGREEMENT: Defendant and the Government enter into the following plea agreement:

Pursuant to North Carolina v. Alford, D will enter plea of guilty to 1st or Second Degree Murder while armed. The Govt will reserve step back, waive repeat papers, reserve prosecution and dismiss remaining charges.

YOU ARE NOT REQUIRED TO PLEAD GUILTY. If you do plead guilty, you will give up important rights, some of which are stated below.

First, you give up your right to a trial by the court or a jury, comprised of 12 members of the community. At a trial you would be presumed to be innocent and the Government would be required to present evidence in open court to prove its case beyond a reasonable doubt.

At the trial you have the right to have a lawyer represent you. The lawyer would be able to cross-examine witnesses, file motions to suppress evidence and statements, and make objections and arguments on your behalf. You would have the right to question any witness and you could have witnesses come to court and testify for you. You would also have the right to testify if you wanted to; however, if you chose not to present testimony that decision could not be used against you. You could not be convicted at trial unless the court found that the Government had proved your guilt beyond a reasonable doubt.

Second, you give up your right to appeal your conviction to the Court of Appeals. This is a right you would have if you were convicted after trial. The right to appeal includes the right to have the Court of Appeals appoint a lawyer for you and pay for your lawyer's services if you could not afford a lawyer.

Third, if you are not a citizen of the United States, your plea of guilty could result in your deportation, exclusion from admission to the United States, or denial of naturalization.

Your signature on this form means that you wish to plead guilty and give up your right to trial and your right to appeal. If the court accepts your guilty plea, you will be convicted and the only matter left in the case will be for the court to sentence you. No person can guarantee what your sentence will be.

I HAVE REVIEWED THIS FORM WITH MY LAWYER AND HAVE DECIDED TO PLEAD GUILTY IN THIS CASE. I HAVE DECIDED TO GIVE UP MY CONSTITUTIONAL RIGHT TO HAVE A TRIAL AND TO GIVE UP MY RIGHT OF APPEAL.

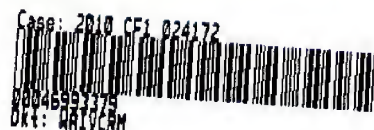
Don McGehee
Don McGehee
Asst. U.S. Attorney
Asst. Corporation Counsel

D. Bennett
Defendant

Approved this 30th day of Nov, 20012

[Signature]
Attorney for Defendant

[Signature]
Judge



The parties agreed and agree to a sentence of 17 years under Rule 11C(1)(c).



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

November 28, 2012

Brian K. McDaniel, Esq.
1025 First Street, SE
Penthouse 13
Washington, D.C. 20003

Re: UNITED STATES v. DERRELL BENNETT, AKA REL, 2010CF1 24172

Dear Mr. McDaniel:

This letter is to confirm the plea offer to your client, Derrell Bennett. This plea offer will remain open until November 30, 2012. However, the government reserves the right to revoke this plea offer at any time before your client enters a guilty plea in this case. If your client accepts the terms and conditions set forth below, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the agreement between your client and the Office of the United States Attorney for the District of Columbia. The terms of the offer are as follows:

DEFENDANT'S OBLIGATIONS

1. Your client, Derrell Bennett, AKA Rel, enter an Alford plea to the follow offense: Second Degree Murder While Armed, in violation of 22 D.C. Code, Section 2103, 3202 (2001 ed.) Your client understands that the offense of Second Degree Murder While Armed carries a potential maximum penalty of up to forty years incarceration.

2. Your client and the Government each agree that a sentence of seventeen (17) years of incarceration is the appropriate sentence in this case. Your client and the Government agree, pursuant to Rule 11(e)(1)(c) of the Superior Court Rules of Criminal Procedure, to present this plea agreement to the Court for its approval. If the Court accepts the plea agreement and the specific sentence agreed upon by the parties, then the Court will embody in the judgment and sentence the disposition provided for in this plea agreement, pursuant to Rule 11(e)(3) of the Superior Court Rules of Criminal Procedure. The parties understand, however, that, in light of



other factors, the Court may not agree that such a sentence is an appropriate one and may reject the plea, pursuant to Rule 11(e)(4) of the Superior Court Rules of Criminal Procedure. Upon such a rejection, pursuant to Rule 11(e)(4), neither party would then be bound by this plea agreement. Your client understands that if this happens, the Court, in accordance with the requirements of Rule 11(e)(4), will inform the parties of its rejection of the plea agreement, and will afford your client an opportunity to withdraw the plea, or, if your client persists in the guilty plea, will inform your client that a final disposition may be less favorable to your client than that contemplated by this agreement.

3. In entering this Alford plea, your client agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute, as follows:

(a) Your client also understands that by entering an Alford plea, your client is waiving or giving up his right to be tried by a jury or by a judge sitting without a jury, the right to be assisted by an attorney at trial and the right to confront and cross-examine witnesses.

4. Your client acknowledges and has been made aware pursuant to the Innocence Protection Act that there may be physical evidence which was seized from the victim, crime scene or from your client or from some other source that can be tied to your client that could contain probative biological material. Your client understands and agrees that in order to plead guilty in this case, your client must waive and give up DNA testing in this case and must execute a written waiver of DNA testing. Your client further understands that should he waive and give up DNA testing now, it is unlikely that he will have another opportunity to have the DNA tested in this case..

GOVERNMENT'S OBLIGATIONS

5. In return for your client's Alford plea regarding Second Degree Murder While Armed under this agreement, this Office agrees to the following:

(a) The United States agrees to Dismiss the greater charge Of First Degree Murder While Armed, and the remaining charges at the time of sentencing.

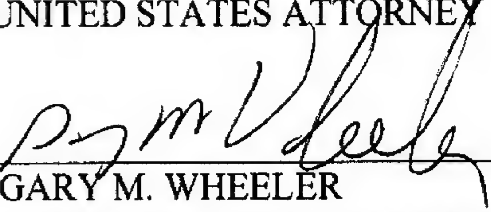
6. This agreement only binds the United States Attorney's Office for the District of Columbia. It does not bind any other United States Attorney's Office or any other federal, state or local prosecuting authority.

7. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the Office of the United States Attorney for the District of Columbia. This agreement supersedes all prior understandings, promises, agreement, or condition, if any, between this Office and your client.

Respectfully,

RONALD C. MACHEN
UNITED STATES ATTORNEY

By:


GARY M. WHEELER
ASSISTANT UNITED STATES ATTORNEY

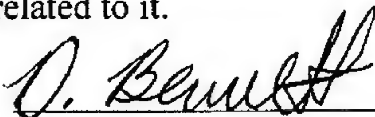
DEFENDANT'S ACCEPTANCE

I have read this plea agreement and factual proffer and have discussed it with my attorney, Brian McDaniel, Esquire. I fully understand this agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me, nor am I under the influence of anything that could impede my ability to understand this agreement fully.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to enter this agreement, except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.

Date:

11/30/12


Derrell Bennett

Had this case gone to trial the government would prove beyond a reasonable doubt that, on November 12, 2010, at approximately 3:04 a.m., witnesses dialed 911, and once officers from the Metropolitan Police Department responded to the 5000 block of Galloway Street, NE, they discovered Keith Banks, lying on the ground in nearby Fort Circle Park, suffering from apparent gunshot wounds. Medical personnel transported Keith Banks to Med-star where he was pronounced dead at 3:52 a.m.

During an autopsy performed on Keith Banks on November 12, 2010, Dr. Sarah Colvin concluded that the cause of his death was multiple gunshot wounds, including two gunshot wounds to the back of the head, one gunshot wound to the right arm, and one gunshot wound to the left arm. She also concluded that the manner of death was homicide.

A witness told police officers that, it heard a male shout twice, "Get out, and put your hands up!" Shortly thereafter, the same witness heard shots, and noticed a dark-skinned black male running out the park, and then enter the passenger side of a full-size SUV, which that witness thought, may have been a Tahoe or an earlier model Escalade. That vehicle, then drove away at a high rate of speed.

Another witness (W-2,) told detectives that on November 11, 2010, the day before the murder, it had seen a person it knew as "Dink" driving an SUV matching the description of the SUV seen speeding away from the 1100 block of Galloway Street, NE. That witness, when shown a single photo of Reginald Vance, positively identified him as "Dink!"

Detectives found in the address book attached to the decedent's phone, a phone number "202-4[REDACTED]" assigned to "Dink." Phone records revealed that several phone calls were made between the phone number listed to "Dink," and the decedent's phone, between 1:00 a.m., and 3:00 a.m. on November 12, 2010, the morning of the murder. Phones records show that defendant Vance never called the decedent after November 12, 2010, at 3:01 a.m., even though they had, initially, planned to travel to Jamaica together, a few days afterwards.

One witness told detectives that it was with the decedent, near the intersection of New Hampshire Avenue, NW, on November 12, 2010, earlier on the morning that the decedent was killed. That witness also stated that, at approximately 2:30 a.m, during a phone conversation between the decedent and an unknown person, it heard the decedent direct the unknown person to pick the decedent up. Phone records will show that a call was made from the phone number belonging to defendant Vance to the decedent's phone at 2:33 a.m., and lasted approximately eight and one-half minutes. At 2:46 a.m., another call was made to decedent, from the same number. The latter call was made, using the cell tower located at 5200 2nd Street, NW, which is approximately three blocks away from the intersection of New Hampshire and Emerson Streets, NW, where the decedent was when the witness heard him ask to be picked up.

Phone records also show that on November 12, 2010, a call was made from defendant Bennett's phone number at 1:51 a.m. Records further show that at 1:53 a.m, a call was made from defendant Vance's phone number, and both calls used the same cell tower. At 2:13 a.m., two additional calls were made from defendant Vance's phone number. Then, at 2:14 a.m,

another call was made from defendant Bennett's phone number. Those three phone calls utilized the same cell tower, located at 5300 1st Place, NE. Finally, on November 12, 2010, at 3:01 a.m., another call was made for defendant Vance's cell phone number. Then, at 3:12 a.m., another call was made from defendant Bennett's cell phone number. Both of these calls utilized the cell tower located at 5902 31st Avenue, Hyattsville, MD. In sum, the phone records show that defendant Bennett and defendant Vance were together on the night that Keith Banks was killed.

While processing the scene, evidence technicians recovered six shell-casings within an area extending from a point 5'6" away from the Galloway Street curb to a point near where Keith Banks was found, 110' away. In addition, technicians recovered a red reflector lens lying on Galloway Street. Text messages sent between defendant Bennett and the decedent reveal that they had argued over money owed defendant Bennett by the decedent for drugs fronted to the decedent by defendant Bennett. Another witness who also owed money to defendant Bennett, received a phone call from defendant Bennett on the night of the murder, advising that witness that defendant Bennett had addressed Keith Banks and that the witness would be next.

When detectives went to defendant Vance's home address, [REDACTED] Lawrence Street, Brentwood, MD, they found a tan Chevy Tahoe, matching the description of the SUV witnesses described fleeing the 1100 block of Galloway Street, NE, on November 12, 2011, the night of the murder. When detectives then executed a search warrant related to that vehicle, they determined that the lens cover, recovered from the 1100 block of Galloway Street, NE matched the other lens covers on the interior of the doors, and fitted the space in the interior of the right rear passenger door, where a lens cover was missing.

Reginald Vance, would testify that during the early morning hours of November 12, 2010, that he was driving, and Derrell Bennett and Keith Banks, were passengers in a tan or champagne-colored Chevy Tahoe, in the 5000 block of Galloway Street, NE, when Derrell Bennett asked Reginald Vance to pull over. Once Mr. Vance stopped the vehicle, Derrell Bennett, who was seated in the rear seat pulled a pistol and ordered Keith Banks to get out of the car. Then, when Keith Banks got out of the car and began to run, Derrell Bennett fired a shot at Mr. Banks, exited the vehicle and chased Mr. Banks, firing additional shots as they ran, and disappeared into the park. Mr. Vance waited inside the vehicle as this took place. After the shots stopped, Derrell Bennett, re-entered the Tahoe, and urged Mr. Vance to drive away. Reginald Vance then drove Derrell Bennett to Bennett's home in Hyattsville, MD.